

REMARKS

Applicant is in receipt of the Notice Of Non-Compliant Amendment mailed February 22, 2005.

On January 18, 2005, Applicant mailed a Response (reply) to a non-final Office Action mailed November 29, 2004. In that Response, Applicant requests reconsideration of the present case, without amendment. Applicant respectfully submits that since Applicant's Response was without amendment, 37 C.F.R. 1.121 does not apply to that Response. Furthermore, even if Applicant had made an amendment in that Response, which Applicant did not, Applicant respectfully submits, pursuant to 37 C.F.R. 1.121, "a complete listing of all claims ever presented" is necessary only if Applicant "includes a change to an existing claim". Applicant did not include any change to any existing claim in the Response mailed January 18, 2005. Accordingly, Applicant respectfully submits that a complete listing of all claims was not appropriate and, thus, did not include a complete listing of all claims in that Response. Nevertheless, Applicant submits "a complete listing of all claims ever presented" without amendment to any of the claims to expedite prosecution.

Pursuant to 35 U.S.C. 132 and 37 C.F.R. 1.111, Applicant respectfully requests reconsideration of Applicant's Application. Applicant respectfully notes in pertinent part "...if after receiving such notice, the applicant persists in his claim for a patent, with or without amendment, the application shall be reexamined" as stated in 35 U.S.C. 132(a) (*emphasis added*). Applicant also respectfully notes "If the Office action after the first examination (§1.104) is adverse in any respect, the applicant or patent owner, if he or she persists in his or her application for a patent or reexamination proceeding, must reply and request reconsideration or further examination, with or without amendment" as stated in 37 C.F.R. 1.111 (a)(1) (*emphasis added*).

Applicant respectfully submits that the Notice Of Non-Compliant Amendment mailed February 22, 2005 is improper since Applicant's Response mailed January 18, 2005 was without amendment.

Applicant respectfully requests reconsideration of the present case in light of the remarks above.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-57900/JCH.

Also enclosed herewith are the following items:

☒ Return Receipt Postcard

Respectfully submitted,



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